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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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JUN 23 1997

In the Matter of)
)
Implementation of Section 304)
of the Telecommunications)
Act of 1996)
)
Commercial Availability)
of Navigation Devices)

Federal Communications Commission
Office of Secretary

CS Docket No. 97-80

REPLY COMMENTS OF
CONSUMER ELECTRONICS RETAILERS COALITION

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0711

Dated: June 23, 1997

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SUMMARY

The Consumer Electronics Retailers Coalition (the "Coalition" or "CERC") respectfully submits these reply comments in the above-captioned proceeding. Most Commenters recognize that progress in technical standards is the key to competitive manufacture and sale of navigation devices. The Coalition believes that this strong, broadly based support for competition will help the Commission succeed in implementing specific performance requirements in its regulations, as the Coalition proposed in its own Comments.

Competition in nationally portable navigation devices:

A leading cable MSO and multi-media company, the major information technology associations, consumer electronics manufacturers, telecommunications providers, and retailers agree that real and robust *competition* in the design, manufacture, and sale of navigation devices is the *sine qua non* of commercial availability as mandated by Section 629. To attract the necessary design and manufacturing investment, sufficient standards activity must occur to create a national market. Thus, this proceeding is fundamentally about achieving national portability in devices.

Commercial availability: Some commenters argue that "commercial availability" may be equated with availability of a device from a vendor that is technically not affiliated with the MVPD, notwithstanding whether consumers receive any additional choice. The Coalition believes that this view is

at odds with the clear and consistent Congressional intent. To achieve true commercial availability, Section 629 requires that: (1) consumers must have a choice; (2) the choice must include something other than the device chosen by the network operator; and (3) standards activity, private or public, is necessary to create the technical foundation on which choice can be offered yet system security preserved.

Interoperability: Some commenters seek interoperability of devices among MVPD systems -- within industries that already support national portability (e.g., from one DBS system to another DBS system) -- and across different classes of MVPD systems (e.g., from DBS to cable). The Coalition urges the Commission initially to focus on achieving national device portability. Then, entry into the navigation device market from a variety of manufacturers and retailers will lead to marketplace pressures for interoperability of devices among different MVPD systems.

Right to Attach: Though many Commenters purport to support a consumer right to attach equipment obtained from retail outlets, some insist that system operators be permitted to establish their own standards as to what may be attached. Such control will be necessary so long as security circuitry is embedded in navigation devices rather than supplied through a security interface. This is why the "right to attach" will not be meaningful until there is a national, renewable security interface that leaves the

system operator in control of security circuitry at all times.

A standard interface for separation of security: A multi-industry consensus is emerging in favor of creating, and supporting, standard interfaces that promote competition yet leave security circuitry under the control of the system operator. Comments by NCTA indicate the acceptance of this idea in the cable industry; Comments by Time Warner demonstrate that, in such an environment, devices that are independently designed and manufactured can, through software, be conformed to the particular features of local systems.

Those who oppose operator control also oppose a national renewable security standard. The alternative -- embedded security -- involves essentially a one-time decision by the device manufacturer, after which the operator loses efficient physical control.

Analog devices: The Coalition does not agree with those who recognize that an analog security interface has already been developed but who urge the Commission to refrain from implementing one. The timing and extent of the cable industry's transition to digital transmission is uncertain. Allowing analog security circuitry to remain embedded in new converter boxes means that not only analog, but also hybrid converter boxes can never be subject to true competitive availability -- even though a National

Renewable Security Standard (NRSS) for digital transmissions may have been fully implemented.

The Commission has already required, and the private sector has already designed, an interface providing for a separate analog security module. Whether in this docket, or in ET Docket 93-7, or both, the Commission should require the implementation of such an interface on a prospective basis.

Security interfaces should be required on a prospective basis: Several commenters argue that even after national security interfaces are achieved, system operators should be able to distribute (a) navigation devices with embedded security, and (b) "security" cards that include non-security features and functions. The Coalition believes that allowing distribution of such devices would be harmful to achieving competitive commercial availability in the marketplace, would increase customer confusion, and would detract from renewability of security. In the long run it would cost consumers money.

Subsidy Prohibitions: Much of the discussion, by several other Commenters, of Section 629's anti-subsidy provision ignores a crucial fact: this provision is clearly written as a *condition* that applies only when an MVPD offers navigation devices directly to consumers. It does not apply if consumers procure their navigation devices from unaffiliated retailers or vendors. So it cannot prohibit price rebates offered by such independent retailers in

connection with DBS or other navigation devices.

Conversely, this provision clearly applies to all cases in which an MVPD operator provides navigation devices directly to consumers. In that circumstance, all price rebates, deep discounts, and below-cost offerings must be scrutinized for compliance with the law.

Several commenters argue that Section 629's prohibition on bundling and subsidization should apply only to MVPDs that are subject to cost-of-service regulations (i.e., major cable MSOs). There simply is no support in the provisions or policy of Section 629 for such an implied exceptions.

Sunset: Some Commenters contend that the sunset requirements "should be read as flexibly as possible," and further assert that relevant geographic, service, and product submarkets should be considered in determining whether the sunset criteria have been met. But pursuant to Section 629(e), the Commission regulations should not be sunset without specific findings that both MVPD service and product markets are fully competitive, and an additional finding that abolishing the regulations would continue to promote competition and serve the public interest.

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The Consumer Electronics Retailers Coalition (the "Coalition" or "CERC") respectfully submits these reply comments in the above-captioned proceeding. The Coalition includes Best Buy, Circuit City, Montgomery Ward, Sears, Tandy, the International Mass Retail Association, the National Retail Federation, and the North American Retail Dealers Association.

In its initial comments filed in response to the Notice in this proceeding,^{1/} the Coalition said that consumers choose computer and consumer electronics products that offer the right blend of features and technologies. But computer and consumer electronics retailers cannot offer, in any of their products, the ability to function as a navigation device for broadband MVPD systems whose design requires security circuitry to be embedded in the network access device. If allowed to continue into the digital age, this

^{1/} Notice of Proposed Rule Making, In re Implementation of Section 304 of the Telecomm. Act of 1996, Commercial Availability of Navigation Devices, CS Docket No. 97-80 (Feb. 20, 1997) ("Notice").

noncompetitive situation will result in waste and redundancy.

New Digital Video Disk ("DVD") players, direct broadcast satellite ("DBS") receivers, digital TVs, and specially configured computers will include about 85-95% of the circuitry or software necessary to act as a digital cable set-top box. Unless the Commission acts quickly in this proceeding, consumers will not be able to use any of this functionality to gain access to most cable and open video system ("OVS") networks.

An inability to use computer and consumer electronics devices as MVPD navigation devices would be far from trivial in its effect on the development of U.S. industry and commerce, as well as on consumers. At present, fewer than half of all cable subscribers have a set-top box in their homes. This could change significantly as digital broadcasting commences. Analog TVs and VCRs will need digital conversion devices to receive digital transmissions.

As the Coalition pointed out in its comments, unless the Commission regulations strive for national portability of devices in this proceeding, the only digital devices that will be able to serve as DTV converters *and* as cable boxes will have to be proprietary devices, unique to each local system, that can be supplied only by or on behalf of the local cable operator. Apparently even major cable multiple system operators (MSOs) do not relish the thought of such a massive investment in equipment of marginal flexibility, at

a time when there will be so many other calls on their financial resources.^{2/}

Obstacles as to (1) security, (2) transmission variants, and (3) feature compatibility today may prevent a consumer from entering a retail store and obtaining a navigation device that will work with both the consumer's present MVPD system and technically similar systems nationally. Until these obstacles are overcome, there is no way that the products of the computer and consumer electronics industries can be adapted to meet the huge coming demand for navigation devices. "Commercial availability" that is accomplished only on paper, and not in fact, will do nothing to address these problems.

The Coalition urged the Commission to focus in this rulemaking on those MVPD systems in which these obstacles to competitive availability presently exist. To the extent that cable and other MVPD systems, including OVS systems, do not support national portability of devices obtained from independent manufacturers and vendors, they should be required to become technically capable of supporting this degree of competitive availability.^{3/} Otherwise, the cable

^{2/} Coalition members welcome the support of major cable industry participants for achieving the essential elements of national portability and competition in the supply of devices, and look forward to working with them to achieve these ends.

^{3/} DBS systems are not so constrained. They are capable of offering a single national system and a security interface that enables independent manufacture and sale.

and OVS worlds will remain barriers to the efficient and affordable mating of technology and services.

Toward this end, the Coalition urged the Commission to require in its regulations, by dates certain for specific technical accomplishments, that MVPD systems presently not capable of supporting commercial availability of devices on a national basis must support these basic technical attributes:

- a national security interface that allows the circuitry containing and implementing only security "secrets" to be supplied separately by system operators, as part of the network;
- national compatibility among like transmission standards; and
- technical disclosure and nondiscriminatory licensing so as to enable maximum feature interoperability of like devices with local networks.

The Coalition is heartened that other commenters with significant actual and potential investments in MVPD systems and devices now appear to express support -- at least in principle -- for the achievement of these or similar objectives under the Commission's stewardship.^{4/} These include:

- The National Cable Television Association (NCTA);^{5/}

^{4/} Commenters have taken varying views as to the nature, degree, and timing of activity by the Commission appropriate to achieving these objectives.

^{5/} Comments of The National Cable Television Association ("NCTA") at 3, 28-30 (supporting industry efforts to develop standards for an interface between security CPE and CPE with non-security functions). All citations to "Comments" refer to Comments filed in this proceeding on or about May 16, 1997, unless otherwise noted.

- The second largest cable MSO and largest U.S. media company;^{6/}
- The largest local telephone service providers (also cable, and potential OVS, operators);^{7/}
- A major motion picture and cable content provider;^{8/} and
- The major trade associations of the computer, computer software, and consumer electronics industries.^{9/}

Clearly, the time for profoundly pro-competitive action by the Commission has arrived. Competitive commercial availability of navigation devices is now generally regarded

^{6/} Comments of Time Warner Entertainment Company, L.P. ("Time Warner") at 5-7 (discussing guiding principles and concrete steps the Commission can take "to facilitate the development of a competitive retail market for navigation devices").

^{7/} Comments of Bell Atlantic and NYNEX at 2-4 (noting that a number of industry groups are developing standards for the required interface to separate network-specific functions from other navigation functions); Comments of Pacific Bell Video Services ("Pac. Bell") at 3 (agreeing "that universal boxes and network interface modules should be commercially available, so long as these items do not include the proprietary smart cards and software").

^{8/} Comments of Viacom Inc. at 6-9 (promoting a "universal, multi-choice digital set-top box," with a smart-card based conditional access system, and standardized connection for a separate security device).

^{9/} Comments of the Information Technology Industry Council and the Computing Technology Industry Association ("ITI/CompTIA"); Comments of the Business Software Alliance ("BSA") at 8-9 (stating that the Commission should require any MVPD system that is not subject to effective competition to disclose information necessary to allow non-affiliated manufacturers to develop products that can be used in conjunction with the system); Comments of the Consumer Electronics Manufacturers Association ("CEMA").

as in the enlightened self-interest of businesses and consumers alike.^{10/}

I. THE MAIN ISSUE IS WHETHER NATIONAL DEVICE PORTABILITY IS NECESSARY TO ACHIEVE COMMERCIAL AVAILABILITY AND COMPETITION.

A telecommunications hall of nightmares would feature a press release from two decades ago:

WASHINGTON, April 1, 1975--The Federal Communications Commission released today its final Report and Order deregulating the provision of telephone Customer Premises Equipment (CPE) to consumers, and approved the first implementation plan filed thereunder.

The Commission's final regulations require that local Bell System companies must appoint a manufacturing agent and a sales agent to offer commercial availability of a consumer telephone model now manufactured by Western Electric. Sales and manufacturing agents may not be formally "affiliated" with the Bell System or a System company.

The Commission also approved the commercial availability plan filed by the Chesapeake & Potomac Telephone Company (C&P), a member of the Bell System. C&P has appointed George's Appliances, a leading retailer in the Washington, D.C. area, as its exclusive commercial availability agent. As of Jan. 1, 1980, George's will have the right to obtain Bell Ranger models manufactured by the Radio Corporation of America (RCA) under an exclusive license from Western Electric.

The Ranger, a black dial telephone, is C&P's most popular model. Western Electric's contract with RCA stipulates that RCA will not make any modifications to the Ranger model, such as alternative dialing modes, the provision of external input or output jacks, or integration of the telephone unit with other devices or circuitry.

George's customers wishing to obtain an extension telephone for their home will be able to purchase a

^{10/} The Coalition and its members are pleased to join in the comments filed today by a new consensus group, the Navigation Device Competition Coalition.

Ranger model at George's. Actual connection to home wiring will of course be provided by C&P

Two decades removed from events, the potential cost to consumers and industry of such a non-competitive approach to "commercial availability" seems obvious. Such a mistake would have been rectified eventually, at significant cost. At the time, however, it was the competitive path chosen by the Commission that seemed unconventional and risky, and was roundly criticized as dangerous and inefficient.^{11/}

A. Commenters Urging the Commission To Settle For A Non-Competitive, Paper Version of Commercial Availability Are Wrong As To Both Law and Policy.

Despite the emerging consensus on behalf of truly competitive availability of nationally portable devices, some commenters still argue that the Commission, technically, could rule that the statutory mandate of

^{11/} In response to FCC orders promoting telephone industry competition, AT&T officials warned darkly that the nationwide telephone system and quality of telephone service could be damaged by connections of "foreign" equipment, and that lost rental revenues from local telephones could lead to higher telephone service rates. E.g., AT&T Cast Into Ocean of Competition, Wash. Post, Oct. 23, 1977, at F1; Non-AT&T Hookup Rates Sought, Wash. Post, Nov. 2, 1977, at D1; Telephone Monopoly: Good or Bad?, U.S. News & World Report, Nov. 22, 1976 (interview with AT&T Chairman John D. deButts) (responding that with equipment manufactured by other companies, "The problem is maintenance; how it's connected and how it's maintained. We want to guard against the possibility of technical harm from nonconforming or malfunctioning apparatus."); AT&T Plans Record Capital Outlays, Wash. Post, Dec. 8, 1977, at D1 (quoting deButts's warning that FCC actions to foster new competition in equipment sales and intercity communications were creating "'unnecessary risks'").

"commercial availability" is satisfied by a second source manufacturing agreement, and a single alternative distribution channel. They deem irrelevant, or beneficial, the fact that this result: (1) would be contrary to Congress's clear intention, (2) would offer not a whit of additional choice for any consumer, and (3) would do nothing to allow makers of computer and consumer electronics products to adapt these products to help meet the coming demand for conversion and navigation devices.

General Instrument ("GI"), for example, urges that "commercial availability" be deemed achieved by the availability of a piece of equipment that is "compatible with a *particular* MVPD's system from one or more unaffiliated vendors."^{12/} GI claims that commercial availability is satisfied by availability from a single unaffiliated vendor -- whether through a toll-free number, television infomercial, Internet on-line catalog, local retail outlet, or manufacturer's telephone or on-line mail order system.^{13/} Urging the narrowest possible construction, GI argues that so long as consumers technically have a choice in purchasing the same device -- either direct from the MVPD or direct from the MVPD's hand-

^{12/} Comments of General Instrument Corp. ("GI") at 9 (emphasis added); see also id. at 15-17.

^{13/} Id. at 21-23.

picked manufacturer -- Section 629's mandate would be fulfilled.^{14/}

This interpretation of Congress's will is based on an argument strained beyond belief: that in adopting the phrase "commercial availability," Congress forgot all about the need for competition. The law itself conclusively disproves this novel theory. Both the statute and the Conference Report^{15/} retain Section 629's title: COMPETITIVE AVAILABILITY OF NAVIGATION DEVICES. It is a well-established maxim of statutory construction that "the whole act" must be given force for interpretative purposes, including titles.^{16/} Although a title cannot contravene the plain words of a statute, "'the court may consider the title to resolve uncertainty in the purview of the act or for the correction of obvious errors.'"^{17/}

^{14/} Id. at 23. The GI argument is supported in Appendix A by Economists Besen & Gale, who argue that competition between MVPD systems is a sufficient substitute for device competition and choice at the consumer level. Stanley M. Besen & John M. Gale, Charles River Associates, An Economic Analysis of the Commercial Availability of "Navigation Devices" Used in Multichannel Video Programming Systems, at 32-33 (May 16, 1997) (attached as Appendix A to GI Comments) (hereinafter "Besen & Gale"). This is an argument, also made unsuccessfully against the adoption of Section 629, against the congressional mandate itself.

^{15/} S. Conf. Rep. 104-230, 104th Cong., 2d Sess. 180 (1996) ("Conference Report").

^{16/} William N. Eskridge, Jr. & Philip P. Frickey, Legislation: Statutes and the Creation of Public Policy, 645-46 (1988).

^{17/} Id. at 646 (quoting 2A Sutherland, Statutes and Statutory Construction § 47.03, at 121).

The Conference Report for Section 629 provides no hint of support for the revisionist theory that the conference agreement meant to move away from the "competitive" element of commercial availability.^{18/} To the contrary, the Conference Report stresses that "to ensure the commercial availability of such equipment to consumers, the Commission is directed to consult with private standard-setting organizations." Under the second-source/agency interpretation advanced by the revisionists, this requirement would be meaningless because no standards activity, public or private sector, would be necessary or relevant. Clearly, the Conference Report assumes that the Commission will require something to be done, with respect to standards, to allow independent manufacturers to compete in the market for navigation devices.

When considered in context, the portion of the Conference Report cited by the revisionists does not even colorably support their theory. The full text says:

One purpose of this section is to help ensure that consumers are not forced to purchase or lease a specific, proprietary converter box, interactive device or other equipment from the cable system or network operator. Thus, in implementing this section, the Commission should take cognizance of the current state of the marketplace and consider

^{18/} Indeed, the introduction of the phrase "commercial availability" was a suggestion offered by representatives of the information technology industry. The October 31, 1995 letter signed by industry representatives and their comments in this docket make clear that competition is a necessary prerequisite to "commercial availability." See Reply Comments of Navigation Device Competition Coalition filed concurrently in this proceeding.

the results of private standards setting activities.^{19/}

The elements of Congress's reasoning are clear:

(1) consumers must have a choice; (2) the choice must include something other than the device chosen by the network operator; and (3) standards activity, private or public, is necessary to create the technical foundation on which choice can be offered. "Offering" consumers the same device, sourced from a second manufacturer through a second sales channel, comports with none of these three elements.

Both Section 629 and Section 624A^{20/} originated in the House Commerce Committee. The Commerce Committee Report sets forth the clear purpose, rationale, and objectives of Section 629:

The Committee believes that the *transition to competition* in network navigation devices and other customer premises equipment is an important *national* goal. *Competition in the manufacturing and distribution of consumer devices* has always led to innovation, lower prices and higher quality. Clearly, consumers will benefit from having more choices among telecommunications subscription services arriving by various distribution sources. A competitive market in navigation devices and equipment will allow common circuitry to be built into a single box, *or eventually into televisions, video recorders, etc.*^{21/}

^{19/} S. Conf. Rep. 104-230, 104th Cong., 2d Sess. 181 (1996).

^{20/} The "Eshoo" amendment to Section 624A, contrary to the most explicit House legislative history, is cited by some commenters as implying some restriction on the scope of Section 629. See Section V.A. below.

^{21/} H.R. Rep. No. 104-204, 104th Cong., 1st Sess. 112 (1995) (emphasis added).

It was in recognition of this main objective of the legislation -- to allow common navigation circuitry to be built into consumer and computer devices -- that the Conference Committee *added* the requirement for consultation with standards bodies. The House bill, the House Report, the final legislative text, and the Conference Report show a clear and direct purpose of achieving competition and choice through industry-led standards activities. There is not an iota of support for any contrary interpretation.

The revisionists ultimately rely on Congress having required that competitive manufacturers and sellers must be "not affiliated" with a system operator. That a lack of such affiliation is *necessary*, however, does not mean that it is *sufficient* to achieve the clear purpose of the statute.^{22/}

Even if Congress's intention were not so absolutely clear, the Commission, as in all cases, needs to act sensibly. In the absence of explicit direction, the Commission is entitled to take account of the competitive forces it has unleashed elsewhere, as in the case of DTV; and of the fact that in the absence of competition, technical "commercial" availability would be of no benefit to consumers, industry, or anyone other than interests that would benefit most from preservation of the *status quo*.

^{22/} See discussion at Section I.E. below.

B. The Coalition Agrees With Most Of The Commenters, Who Recognize That Competition Is The Goal and Essence of Commercial Availability.

Most Commenters agree that real and robust *competition* in the manufacture, sale, and design of navigation devices is the goal and essence of the commercial availability mandated by Section 629. Time Warner, a leading cable MSO and multi-media entertainment company, observed:

- "Congress demonstrated an intent to have such [navigation] devices be competitively offered to subscribers, and that in so doing, subscribers would be able to benefit from innovative uses of MVPD networks, increased equipment quality and lower prices."^{23/}

The computer hardware and software industry similarly stressed that competition at the consumer level is the essence of commercial availability:

- "Congress enacted this provision to enable all MVPD system customers to realize the benefits of a competitive market for premises-based equipment. As Congress recognized, competitive markets increase consumer choice, drive innovation, and result in lower prices."^{24/}
- "A fundamental goal of this proceeding is to encourage competition in the provision of customer premises equipment ("CPE") used with MVPDs' systems and, in turn, to maximize consumer choice with respect to such CPE. ITI and CompTIA believe that, in the long term, consumers should have the right to attach competitively-provided CPE to any multichannel video programming system. Until meaningful competition develops in the provision of MVPD services, however, MVPDs will be able to leverage their power in the programming market to dominate or control the selection of CPE used to access their programming. Therefore, we support

^{23/} Time Warner Comments at 26 (citing Conf. Rep. at 181).

^{24/} BSA Comments at 2.

policies that encourage the development of facilities-based competition among MVPDs so that consumers can have multiple choices in both broadband video and other services and the CPE used to access those services."^{25/}

The consumer electronics manufacturers agree:

- "Zenith concurs with the Commission that consumers will benefit from having more choices among multiprogram video services arriving by a variety of distribution sources and from marketplace competition brought about the commercial availability of set-top boxes."^{26/}

So do Ameritech New Media, Americast, and others:

- Section 629, as a whole, is intended to provide customers with the benefits of competition in the manufacture and sale and equipment used to access MVPD programming and other services.^{27/}
- Section 629 of the Act expresses a commonsense competitive goal: a service provider with market power should not use that power to make American consumers captive to a single vendor for video CPE.^{28/}

Put simply, competition in the manufacture, sale and design of navigation devices and integrated products is what Section 629 is all about.

C. For Local Systems, The Only Way To Achieve Competition In Manufacturing and Sales Is Through National Portability of Devices.

Not even the revisionist commenters tried to prove that consumers could benefit from real choice, or that computer

^{25/} ITI/CompTIA Comments at 2.

^{26/} Zenith Comments at 6; see also CEMA Comments at 1-2; Comments of Uniden America Corporation at 1-2.

^{27/} Initial Comments of Ameritech New Media, Inc. at 2.

^{28/} Americast Comments at 4.

and consumer electronics manufacturers could adapt their products to function as navigation devices, **without** standards for portability which are sufficient to establish a national market. Such a proposition cannot be supported because it flies in the face of reality. The revisionists argue instead that Congress at some point must have changed its mind about wanting competition in the first place.^{29/}

No amount of competitive zeal on the part of a computer manufacturer, or good intentions on the part of a system operator, can allow a computer to function as a navigation device so long as (1) the system operator must supply the security circuitry and software, (2) the computer operator supplies the computer circuitry and software, and (3) the system provides no interface allowing the separately controlled circuitry and software elements to function together.

In theory, in the absence of a nationally adopted interface, each system operator could create its own interface; it could publish the specifications, and supply the security circuitry and software on system-specific cards or plug compatible devices. In that case, however, the computer manufacturer, which ships to a national market, could not practicably configure its computers as hosts to dozens of security modules, cards, etcetera, that differ in their physical and electrical characteristics. A

^{29/} See discussion immediately above.

manufacturer of TVs and VCRs, whose devices are not generally programmable, would have even less chance. Under these circumstances, the chances of any actual commercial activity are minimal.

As the Coalition discussed in its initial Comments, systems may differ, as well, in transmission methods and system features and functions. Congress realized that, to have any chance of allowing independent manufacturers and sellers to enter the market, the Commission must assure that sufficient standards activity occurs to achieve national portability. This is why Congress stipulated that, in enforcing Section 629, the Commission should consult with standards organizations.^{30/}

D. Interoperability Is An Important Policy Goal But Need Not Be Pursued By Regulation.

Some commenters ask the Commission to proceed beyond achieving national portability. They argue that Congress's intention will not have been achieved until all navigation devices can be made completely interoperable among MVPD systems -- even within industries that already support national portability (e.g., from one DBS system to another DBS system) -- or even across MVPD modes of distribution (e.g., from DBS to cable).

Viacom describes an ideal universal, multi-choice digital set-top box:

^{30/} Section 629(a) of the Communications Act, 47 U.S.C. § 549(a).